

The Massachusetts Department of Public Health Contractor Guidelines for Required ADA Compliance

**Programmatic Access: Writing Accessibility Policies and Procedures
&
Facility Access: Conducting a Facility Self-Assessment Using
*The Massachusetts Facility Assessment Tool***



**Revised September 2010 by
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INTRODUCTION

Under the Americans With Disabilities Act (ADA), the Massachusetts Department of Public Health (MDPH), as a public entity, has obligations not to discriminate against individuals with disabilities directly *or through contractual arrangements*. Programs, sites, and services provided under MDPH contracts must be in compliance with all applicable disability laws. When MDPH selects agencies as contracted providers through the procurement process, those agencies are agreeing to provide certain programmatic assurances or policies regarding compliance with disability laws, as well as certain information about facility accessibility. Therefore, MDPH requests that bidders and contracted providers make available copies of their Accessibility Policies and Procedures, Massachusetts Facility Assessment Tools, and related ADA compliance information to ensure that their programmatic and facility access is meeting the needs of the public.

DIRECTIONS

(1) Cover Page

- ➔ Use the cover page template (on page 4 of this document) with Accessibility Policies and Procedures.

(2) Accessibility Policies and Procedures

- ➔ Include all the policies as outlined on pages 5-18. See [Appendix A](#) for a sample of the required content for Accessibility Policies and Procedures.

(3) Massachusetts Facility Assessment Tool

- ➔ If your agency has a residential component, complete the form in [Appendix B](#).
- ➔ Make a completed *Massachusetts Facility Assessment Tool* available for inspection to self-report facility access for each program site in your agency. Download the Massachusetts Facility Assessment Tool from:
http://www.mass.gov/?pageID=eohhs2terminal&L=5&L0=Home&L1=Consumer&L2=Prevention+and+Wellness&L3=Health+and+Disability&L4=ADA+Compliance+Coordination&sid=Eeohhs2&b=terminalcontent&f=dph_com_health_health_disability_c_mfat&csid=Eeohhs2

(4) Transition Plan Forms

- ➔ Using the templates in [Appendix C](#) develop a transition plan for all barriers identified from the *Massachusetts Facility Assessment Tool*. For each program site, include a:
 - Transition Plan cover page,
 - Transition Plan for readily achievable barrier removal, and
 - Transition Plan for non-readily achievable barrier removal/modifications

COVER PAGE
ACCESSIBILITY POLICIES AND PROCEDURES

Agency Name: _____

Mailing Address: _____

***Note: You must include *all* program site addresses. Copy this page as needed.**

Program name: _____

Program type: _____

Site address: _____

Vendor code #: _____

FEIN #: _____

Contract ID #: _____

License/ Certification # (When applicable): _____

NAME & TITLE OF INDIVIDUAL COMPLETING THIS DOCUMENT :

Phone number: _____

TTY number: _____

Fax number: _____

E-mail: _____

Name & title of ADA coordinator *if different* from individual completing this document:

Phone number:

TTY number: _____

Fax number: _____

E-mail: _____

GUIDELINES FOR WRITING ACCESSIBILITY POLICIES AND PROCEDURES

In addition to the **MDPH Sample Accessibility Policies and Procedures**, found in **Appendix A**, the following helpful resources may be referenced in the guidelines below:

Referenced Resources:

The ADA Title II Action Guide for State and Local Governments and Supplement on Employment by *Adaptive Environments Center, Inc.* may be purchased from:
<http://adaptiveenvironments.org/index.php?option=Resource&articleid=185&topicid=25>

The Disability Handbook for Executive Branch Entities by the *Massachusetts Office on Disability (MOD)*, <http://mass.gov/mod/ADACoordinators.html>

Additional Resources:

U.S. Department of Justice ADA Home Page, <http://www.ada.gov/>

U.S. Department of Justice ADA Title II Technical Assistance Manual, Covering State and Local Government Programs, <http://www.ada.gov/taman2.html>

U.S. Department of Justice ADA Title III Technical Assistance Manual, Covering Public Accommodations and Commercial Facilities, <http://www.ada.gov/taman3.html>

I. ADMINISTRATION

A. ADA COORDINATOR

MDPH requests that an ADA Coordinator be assigned within each agency. The ADA Coordinator's responsibility is to coordinate program ADA compliance activities, ensure that the Massachusetts Facility Assessment Tool, Accessibility Policies and Procedures, and other contractual requirements are completed, and to receive and investigate grievances.

B. PUBLIC NOTICE

MDPH requests that contracted providers present notice to the public of ADA rights and requirements. This should consist of a statement that the program complies with the ADA and the name, phone number and address of the ADA Coordinator. The notice must be available in alternative formats and be provided on an ongoing basis. Multiple methods of providing notice should be utilized, such as publishing it in documents disseminated to the public; posting it in prominent locations; and including it in reports, program brochures, and manuals. Short forms should be included in conference flyers and event advertisements.

C. GRIEVANCE PROCEDURE

MDPH requires that contracted providers to adopt a clear grievance procedure. A written policy must be in place which outlines the procedure for employees, consumers and members of the public to file a grievance if they believe that their rights under the ADA are being violated. The policy should describe how a grievance may be filed and the process by which the grievance will be handled. The ADA grievance procedure may be incorporated in an existing grievance procedure. For more information and for a sample notice and grievance procedures which you may adapt for your agency, see The Disability Handbook for Executive Branch Entities by the Massachusetts Office on Disability, or the Title II Action Guide, published by the New England ADA Center: <http://www.adaptiveenvironments.org/neada/site/publications> .

II. EMPLOYMENT

Agencies operating programs and services funded by MDPH may not discriminate in employment practices against qualified job applicants or employees on the basis of disability. Title I of the ADA prohibits private employers from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training and other terms, conditions, or privileges of employment. Similar prohibitions exist for Title II governmental agencies.

MDPH requests that its contracted providers make available documentation of policies and procedures ensuring non-discrimination in the area of employment. For more detailed information on employment obligations see the Employment Supplement to the ADA Title II Action Guide which contains practical and helpful step-by-step worksheets.

A. REASONABLE ACCOMMODATION POLICY AND PROCEDURES

Employers are required to provide “reasonable accommodation” upon request to a qualified job applicant or employee with a disability so that the job applicant or employee may have equal opportunity to apply, perform essential functions of the job, or to be afforded equal opportunity in other benefits or privileges of employment unless the employer can demonstrate that the requested accommodation imposes “an undue hardship.”

A “reasonable accommodation” is a change in the manner or circumstances in which a job function is performed. Examples of reasonable accommodations include: changing the height of a desk for an employee who uses a wheelchair, allowing an employee with diabetes to eat at different times of the day, or having a sign language interpreter at a job interview for an applicant who is deaf or hard of hearing.

The Reasonable Accommodation Policy should state your agency’s commitment to provide reasonable accommodations to qualified job applicants and employees with disabilities. It should describe procedures for handling reasonable accommodation requests from employees and applicants and indicate who has authority to make undue hardship determinations.

B. EMPLOYMENT TRAINING POLICY

The Employment Training Policy should state that training or other staff developmental opportunities are provided to staff on rights and obligations under Title I of the ADA. This should include the employer’s requirement to provide reasonable accommodations, the differentiation between essential and marginal job functions, permissible and impermissible inquiries, and confidentiality requirements. Training should familiarize employees with your

agency's reasonable accommodation policies and practices and other non-discrimination employment practices.

III. NONDISCRIMINATORY OPERATIONS

Under Titles II and III of the ADA, programs and services are required to operate in a way that does not discriminate against persons with disabilities. MDPH requests that contracted providers provide documentation of general operating policies that assure non-discrimination. The content of the required policies are described below. For more detailed information see the ADA Title II Action Guide.

A. EQUAL OPPORTUNITY POLICY

Contracted providers are required to provide equally effective opportunities for individuals with disabilities to participate in and benefit from services and programs funded by MDPH. Policies must be in place to ensure that individuals with disabilities may participate in and benefit from services and programs which you offer to the general public.

B. REASONABLE MODIFICATION POLICY

As a public accommodation and in your role as a MDPH contractor, your agency must make reasonable modifications to policies, practices and procedures to accommodate persons with disabilities unless your agency can demonstrate that such modifications would "fundamentally alter" the nature of the program or services offered. You are not required to offer services outside your agency's legitimate area of expertise if, in the normal course of business, your agency would not offer services to an individual without a disability. For example, a clinic specializing in drug rehabilitation could refuse to treat a person who is not addicted to drugs or alcohol but may need specialized psychological services.

The Reasonable Modification Policy should state your agency's commitment to make reasonable modifications when the modifications are necessary to afford persons with disabilities access to services and programs offered to the public. The Policy should contain procedures for determining whether a modification is reasonable. It should state which administrative or staff member(s) are responsible for making these determinations and the documentation needed to support a decision that a particular modification poses a fundamental alteration to the program. The Policy may contain examples of reasonable modifications to policies, practices, or procedures that your program might typically make.

Example of reasonable modification: allowing service animals access to a program site where animals are normally prohibited.

C. ELIGIBILITY & SAFETY REQUIREMENTS POLICY

As a public accommodation and MDPH contractor, your agency is prohibited from using eligibility requirements that screen out or tend to screen out people with disabilities. Even when eligibility criteria may not be intended to screen out people with disabilities, such criteria may inadvertently have that result; therefore all criteria should be reviewed carefully.

Example: An outpatient counseling program cannot require that a person with a mobility impairment be accompanied by an attendant in order to attend counseling.

Neutral rules may impose legitimate safety requirements that are necessary for the safe operation of the program even if the effect of such rules is to screen out persons with disabilities. Safety requirements must be based on actual risks and not on mere speculation or stereotypes.

Safety requirements must be reviewed to ensure that they are necessary to the safe operation of programs. Any decision to limit the participation of a person with a disability related to safety concerns must be reviewed on a case-by-case basis to ensure that the decision is based on facts, not myths or stereotypes, and that all appropriate mitigating measures are taken to provide for maximum participation.

The Eligibility Requirements Policy should contain a statement that the eligibility criteria for the program have been reviewed and, if necessary, modified to ensure that they do not screen out or tend to screen out people with disabilities. All safety requirements should be reviewed to ensure that they are based on actual risks. The Policy should also state that as new criteria are developed, their impact on people with disabilities will be reviewed.

D. POLICY REGARDING SURCHARGES

“Surcharges” imposed on people with disabilities for the provision of program modifications, access improvements, or communications aids are not permissible.

Example: A program may not charge a person who is deaf or hard of hearing for interpreting services.

The Surcharges Policy should state that surcharges will not be imposed

on people with disabilities under any circumstances.

E. INTEGRATED SERVICES POLICY

Services must be provided in the most integrated setting appropriate. It is permissible to provide separate programs, but these cannot be substitutes for access to integrated programs.

Example: It is permissible to hold a separate training on prostate cancer for people who are deaf or hard of hearing, so long as a person with a hearing impairment is not barred from attending an integrated program.

The Integrated Services Policy should state that services to people with disabilities are provided in the most integrated setting appropriate and that people with disabilities are not required to participate in separate programs.

F. SIGNIFICANT ASSISTANCE POLICY

Programs to which you provide significant support using MDPH funds may not discriminate against people with disabilities.

Example: Providing free space to a group that overtly excludes people with disabilities in a facility rented with MDPH funds would be prohibited.

G. ACCESSIBLE TRANSPORTATION POLICY

If transportation is provided by your organization to consumers or members of the public, it must also be provided to people with disabilities.

Example: If your agency offers teens who participate in anti-violence counseling programs at your agency shuttle bus transportation from school to your agency, then you must offer transportation to teen participants who have mobility impairments and use wheelchairs.

The Accessible Transportation Policy should contain names and phone numbers of providers of accessible transportation including companies with lift-equipped vans, independent living centers, or other organizations which may offer accessible transportation services. If your program utilizes full-size buses, it should include names and phone numbers of bus companies that have lift-equipped vehicles. You may list the cost of transportation by various providers. The policy should designate a staff member or members responsible for coordinating the provision of accessible transportation.

H. COMMUNITY REFERRAL POLICY

If a program requires participation in other programs and services as a condition of participation or it makes referrals to other programs and services, it must be able to make referrals to accessible programs and services.

Example: If your agency operates a certified batterer intervention program requiring batterers who have substance abuse problems to attend substance abuse counseling not offered by your agency, you must be able to make referrals to accessible outpatient substance abuse counseling programs.

The Community Referral Policy should state that the program has information regarding which of the programs to which it may refer individuals are accessible and which are not. It should state that there is at least one accessible provider in each of the categories of services in which it makes referrals.

I. TRAINING POLICY REGARDING NON-DISCRIMINATORY OPERATIONS

The Training Policy should state that training or other staff development activities provided by and/ or to agency personnel and volunteers will include information about ADA requirements that programs operate in a manner that is not discriminatory towards people with disabilities. Training should familiarize staff with agency policies and procedures related to non-discriminatory operation of programs and services offered by your agency.

IV. EFFECTIVE COMMUNICATION

Titles II and III of the ADA require that that communication with individuals with speech, hearing, and visual disabilities be as effective as communication with others. Sometimes in order to provide equally effective communication, “auxiliary aids” and services such as sign language interpreters, assistive listening devices or Braille materials must be provided. These are only a few examples of communication aids that might be required, not an exhaustive list. MDPH requests documentation of policies, practices, and procedures that ensure that equally effective communication is provided by your program.

A. EFFECTIVE COMMUNICATION POLICY

The Effective Communication Policy should contain a statement of the program’s commitment to provide equally effective communication to individuals with speech, hearing, and visual disabilities.

Contracted providers must establish a clear process for clients/participants to request an auxiliary aide or service necessary for effective communication. Since the auxiliary aid requirement of the ADA is flexible and allows agencies to choose among various types of auxiliary aides and services to meet the effective communication requirement, the Policy should contain procedures for deciding what type of auxiliary aid will be provided, giving primary consideration to the type of aid or service preferred by the individual with a disability.

Auxiliary aides that would result in an “undue burden” (i.e. “significant difficulty or expense”) or in a “fundamental alteration” in the nature of the services are not required. The Policy should designate an administrator or staff member responsible for making “undue burden” determinations and describe how such determinations would be made. The Policy should also state the program’s commitment to providing an effective alternative auxiliary aid should the requested aid be deemed an “undue burden”.

For more information on effective communication, see the Title II Action Guide.

B. TTY/TDD POLICY

The TTY/TDD Policy should state that the program has a TTY, that agency staff has been trained in operating it, and that the TTY number is listed in the telephone directory and is printed on all communications where the program’s phone number is given.

C. ALTERNATIVE FORMAT POLICY

Contracted providers must assure effective access for persons who are unable to read regular print due to a disability. All print materials provided by your programs must be available in alternative formats, such as: Braille, large print, audio tape and computer disks. It is not required that each item be produced in alternative formats; only that it be available upon request in a timely manner.

The Alternative Format Policy should state the program's commitment to provide material in alternative format necessary to provide equally effective communication. It should describe procedures for obtaining materials in Braille, large print, on audiotape and/ or on computer disk. It should list names and phone numbers of individuals who provide Braille transcription or other services with which the program may wish to contract. It should identify an administrator or staff member responsible for coordinating the provision of alternative formats and describe criteria for making "undue burden" determinations.

D. INTERPRETER SERVICES POLICY

A sign language interpreter is required if necessary for providing equally effective communication to someone who is deaf or hard of hearing unless providing an interpreter is an "undue burden."

An Interpreter Services Policy should state the program's commitment to provide interpreter services for individuals who are deaf or hard of hearing, in order to provide equally effective communication. It should identify an administrator or staff member responsible for coordinating interpreter services and under what circumstances interpreters will be provided. The Policy should designate an administrator or staff member responsible for making "undue burden" determinations and describe how such determinations will be made and what documentation is required to support such a determination.

E. ASSISTIVE LISTENING DEVICE POLICY

Assistive listening systems are auxiliary sound systems that enhance sound for individuals with hearing impairments who are not totally deaf. Assistive listening systems must be made available when necessary to ensure equally effective communication unless they pose an "undue burden".

The Assistive Listening Policy should state whether the program owns or can obtain assistive listening devices in a timely manner. If not owned, procedures for obtaining them should be described.

F. TV CAPTIONING POLICY

All televisions manufactured after 1994 are equipped with decoders that allow for captioning of programs. For older televisions not equipped with one, decoders can be purchased. If you use TV in your program, a decoder is required.

The Captioning Policy should state that programs using television have televisions equipped with decoders and that staff has been instructed in their use.

G. VIDEO POLICY

Videos used by your program should be available with captions when necessary to provide equally effective communication for people who are deaf or hard of hearing.

H. TRAINING POLICY

The Training Policy should state that training or other staff developmental activities address the program's obligation to provide equally effective communication under the ADA. It should also state that staff members are familiar with the program's effective communication policies, practices, and procedures.

V. FACILITY ACCESS

Contracted providers may have obligations to remove barriers under more than one statute. All public accommodations have an obligation under Title III of the ADA to remove architectural barriers and communications barriers that are structural when doing so is “readily achievable.” **“Readily achievable” is defined as easily accomplishable with little difficulty or expense.** Even if a public accommodation can demonstrate that barrier removal is not “readily achievable,” it must make its services available through “alternative means,” if such methods are readily achievable.

For example, a provider that offers counseling services in a second floor suite which is accessible only by persons who can navigate up the stairs, may be able to relocate activities to accessible locations on the first floor even if it could demonstrate that installation of an elevator or lift was not “readily achievable.”

For more information see the ADA Title III regulations on the U.S. Department of Justice website at the following web addresses:

<http://www.ada.gov/reg3a.html>

Contracted providers who are recipients of federal funds also have certain obligations to remove barriers under Section 504 of the Rehabilitation Act of 1973. In addition, recipients of federal funds must ensure that overall programs “when viewed in their entirety” are accessible to and usable by individuals with disabilities, even if each of their program sites is not barrier-free. This is known as providing “program accessibility.”

Examples of ensuring program accessibility include:

Scheduling the use of an accessible space on an as-needed basis or entering into an agreement with a local Independent Living Center (ILC) for your agency;

Offering group counseling to persons with and without mobility impairments in an accessible space at the ILC provided that the space at the ILC is large enough to accommodate the group and is private enough to offer confidentiality.

See the discussion on section 504 regulations in the Title II Action Guide for more information about program accessibility. The ADA Title II regulations may be found on the U.S. Department of Justice website at the following web address:

<http://www.ada.gov/reg2.html>

- A. MDPH expects all contracted providers to survey EACH program site in which an MDPH funded program is operated.*

*** If your program has a residential component please answer the questions in [Appendix B](#).**

Use the Massachusetts Facility Assessment Tool to self-report facility access for EACH program site in your agency Download the checklist from:

http://www.mass.gov/?pageID=eohhs2terminal&L=5&L0=Home&L1=Consumer&L2=Prevention+and+Wellness&L3=Health+and+Disability&L4=ADA+Compliance+Coordination&sid=Eeohhs2&b=terminalcontent&f=dph_com_health_health_disability_c_mfat&csid=Eeohhs2

- B. After completing the Massachusetts Facility Assessment Tool, make a list of barriers that limit accessibility. Next identify those barriers whose removal is “readily achievable.” Readily achievable barrier removal is an ongoing obligation and can be carried out incrementally over a period of a year or more. Establish an order of priority for the barriers on the list and project cost estimates and a date by which they will be removed.

Use the corresponding Transition Plans for Readily Achievable Barrier Removal as well as alternate plans for Non-Readily Achievable Barrier Removal/ Modifications. Use the Transition Plan templates available in [Appendix C](#).

Include the following:

1. Cover Page
2. Transition Plan for architectural barriers and structural communication barriers whose removal is “readily achievable” including a date by which removal of each of these barriers will be completed.
3. Transition Plan for architectural barriers and structural communication barriers whose removal is not “readily achievable”, but whose removal is necessary to provide access to individuals with disabilities. Identify alternatives to meet access requirements.

APPENDIX A

MDPH Sample Accessibility Policies and Procedures

**MDPH DISABILITY ACCESS PROJECT
SAMPLE ACCESSIBILITY POLICIES AND PROCEDURES
FOR MDPH CONTRACTED PROVIDERS**

This *Sample* set of Accessibility Policies and Procedures has been developed for training purposes. It provides examples of the content that must be covered by MDPH contracted providers for Accessibility Policies and Procedures adhering to ADA compliance. This sample is based on policies and procedures submitted by real agencies, but since your program may have important differences, do not assume it contains all of the detailed agency-specific information and procedures required.

Your agency may directly adopt the *Sample* format or use one that fits your agency's unique organizational structure. If you use a different format, however, be careful to address the full range of content described in this *Sample* and the *Guidelines for Writing Accessibility Policies and Procedures*.

Appendix A: Sample Accessibility Policies and Procedures

SAMPLE COVER PAGE
Accessibility Policies and Procedures

Agency name: "Agency"_____

Mailing address: "Agency" Main Office, 123 Agency Street, Anywhere, MA 02100_____

***Note: You must include *all* program site addresses. Copy this page as needed.**

Program name: Healthy Smiles_____

Program type: Health Education_____

Site address: North County Office, 100 Happy Street, Somewhere, MA 02100_____

Vendor code #: XXXXXXXXXXXX_____

FEIN #: XXXXXXXXXXXXXXXXXXXX_____

Contract ID #: XXXXXXXXXXXX_____

License/ certification # (When applicable): _____

Name & title of individual completing this document :

John Smith, Operations Manager_____

Phone number: 617-555-1212_____

TTY number: 617-555-3333_____

Fax number: 617-555-7777_____

E-mail: JSmith@happysmiles.org_____

Name & title of ADA coordinator *if different* from individual completing this document:

Jane Doe, ADA Coordinator_____

Phone number: 617-555-1212_____

TTY number: 617-555-3333_____

Fax number: 617-555-7777_____

E-mail: JDoe@happysmiles.org_____

Appendix A: Sample Accessibility Policies and Procedures

I. ADMINISTRATION

A. ADA Coordinator:

Jane Doe, ADA Coordinator
123 Agency Street
Anywhere, MA 02100
617-555-1212 (VOICE)
617-555-3333 (TTY)
617-555-7777 (FAX)

B. Public Notice of ADA Compliance:

B.1. Distribution of Public Notice:

A Public Notice describing the “**Agency’s**” compliance with the requirements of the Americans with Disabilities Act will be posted in prominent locations at all program sites and in short form on all brochures and manuals.

B.2. ADA Public Notice Text:

PUBLIC NOTICE
NON-DISCRIMINATION BASED ON DISABILITY
“AGENCY”

The “**AGENCY**” does not discriminate on the basis of disability and is committed to the full participation of persons with disabilities in our programs, services, and activities and on our work force.

The following person is responsible for coordinating the Agency’s compliance with the Americans with Disabilities Act. Inquiries, complaints and requests for communications aids and other accommodations and assistance should be directed to:

Jane Doe, ADA Coordinator
123 Agency Street
Anywhere, MA 02100
617-555-1212 (VOICE)
617-555-3333 (TTY)
617-555-7777 (FAX)

Copies of this notice are available in large print, audiotape, Braille, and on computer disk. The “Agency’s” ADA grievance procedure, self-evaluation, policies, and procedures are also available on request.

C. ADA Grievance Procedure

ADA GRIEVANCE PROCEDURE

This Grievance Procedure is established to meet the requirements of the *Americans with Disabilities Act*. Individuals with disabilities or their authorized representatives who believe that they have been discriminated against on the basis of disability in employment or the provision of services, activities, programs, or benefits are encouraged to use it to bring their complaints to the attention of the “AGENCY”.

The complaint should be submitted in writing or on audiotape to the ADA Coordinator named below. It should include a description of the alleged discriminatory incident or action, the place and date of its occurrence, and the name of any employee or representative of Agency involved. The complaint should also include the name, address, and phone number of the person bringing the complaint or their authorized representative. If assistance is needed to file or pursue the complaint, the ADA Coordinator will provide it upon request. The complaint should be submitted as soon as possible but no later than 60 calendar days after the alleged discriminatory incident to:

Jane Doe, ADA Coordinator
123 Agency Street
Anywhere, MA 02100
617-555-1212 (VOICE)
617-555-3333 (TTY)
617-555-7777 (FAX)

Within 15 calendar days of its receipt, the ADA Coordinator will meet with the complainant to clarify the facts of the incident and discuss possible resolutions. Within 15 calendar days after the meeting, the ADA Coordinator will respond in writing, or if needed for effective communication, in an alternative format preferred by the complainant, such as large print, Braille, or audio tape. The response will explain the position of the Agency and present options for substantive resolution of the complaint.

If the ADA Coordinator’s response does not satisfactorily resolve the issue, the complainant may appeal the Coordinator’s decision to the Executive Director within 15 calendar days of its receipt. Within 15 calendar days of receipt of the appeal, the Executive Director or his/ her designee will meet with the complainant to further clarify the complaint and discuss possible resolutions. Within 15 calendar days of the meeting the Executive Director or his/ her designee will respond in writing or alternative format with a final resolution of the complaint.

All complaints received by the ADA Coordinator, appeals to the Executive Director, and responses from the ADA Coordinator or Executive Director will be kept by the Agency for at least three years.

II. EMPLOYMENT

A. Reasonable Accommodation Policy .

It is the policy of the “**AGENCY**” that no otherwise qualified individual with a disability shall, solely by reason of his/her disability, be excluded from employment or employment-related benefits. Employment, hiring, and advancement will be based solely on the employee or applicant’s ability to perform what the Agency determines to be the essential functions of a position.

Further, it is the policy of the Agency that reasonable accommodations will be made for an otherwise qualified applicant or employee with a disability, unless the Agency can demonstrate that the accommodation imposes an undue financial or administrative hardship on the operation of its programs.

Notice of the availability of reasonable accommodations for job applicants will be included in postings and advertisements and will be made available upon request to applicants with disabilities during the pre-employment process as necessary to ensure equal opportunity for the applicant to secure employment with the Agency.

All applicants will be informed at the initial interview that the Agency does not discriminate on the basis of disability and that requests for reasonable accommodations needed for the performance of essential job functions or for the enjoyment of other benefits of employment should be made following receipt of a conditional offer of employment, preferably at the post employment offer meeting.

Persons with disabilities employed by the Agency are encouraged to request reasonable accommodations at any time when such accommodations become necessary to the employee’s performance of essential functions of his/ her position or to the enjoyment of any other benefits of employment.

Requests for reasonable accommodations should be presented verbally or in writing to the employee’s immediate supervisor or to the ADA Coordinator. The request should include a description of the nature and purpose of the accommodation. Assistance will be made available to any employee requiring assistance in identifying an appropriate accommodation or in documenting the reasons why such accommodations are needed.

A decision will be made within 10 business days of the submission of a reasonable accommodation request accompanied by any supporting documentation needed by the Agency to fairly evaluate the request. The effectiveness of the accommodation and the need for changes or additions to the accommodation will be assessed during the first month of the employee’s use of the accommodation.

Appendix A: Sample Accessibility Policies and Procedures

All reasonable accommodation requests , documentation, discussions, decisions and other matters relative to an employee's status as a person with a disability will be kept confidential.

The final decision concerning any requested accommodation that may represent an undue financial or administrative hardship will be made by the Executive Director. Applicants and employees have the right to appeal the denial of any accommodation request using the ADA Grievance Procedure. In the case of a denial based on undue hardship by the Executive Director the employee or applicant may appeal in writing to the President of the Board of Directors.

B. Employment Training Policy

It is the policy of “**AGENCY**” that staff training and development activities provided for agency personnel include information about ADA employment requirements. Yearly staff training and the Employee Manual include a full explanation of ADA policies, procedures, and practices regarding employment. Yearly in-service trainings and the manual include general information on reasonable accommodation, grievance procedures, essential versus nonessential job functions, permissible versus impermissible inquiries and confidentiality standards. All new employees receive training in ADA policies and procedures by the end of their orientation period. Supervisors and human resources personnel receive additional training appropriate to their respective positions and responsibilities.

III. NON-DISCRIMINATORY OPERATIONS

A. Equal Opportunity Policy

No qualified person with a disability shall be denied the benefits of , be excluded from participation in, or otherwise be subjected to discrimination under any of “**AGENCY’S**” programs or activities.

In providing its services, programs, and activities, the Agency will not:

1. Deny a qualified individual with a disability the opportunity to participate in, or benefit from, a benefit, service, or activity.
2. Deny a qualified individual with a disability the opportunity to participate in, or benefit from, any aid, benefit, or service that is not equal to that afforded to others.
3. Otherwise limit a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by other qualified individuals receiving the aid, benefit, or service.

B. Reasonable Modification Policy

The “**AGENCY**” will make reasonable modifications to policies and procedures necessary to accommodate the needs of a person with a disability. Whenever an individual, qualifying as a person with a disability, requests such modification, this reasonable modification is required unless it can be demonstrated that the requested modification would impose an undue burden or fundamental alteration to the program.

Requests for reasonable modifications can be made to program staff or the ADA coordinator and can be presented verbally or in writing. It is the responsibility of the ADA Coordinator to ensure that requests are responded to appropriately and in a timely fashion—generally not more than 2 working days.

Final decisions regarding requests for reasonable modifications that in the opinion of the ADA Coordinator may represent an undue burden or fundamental alteration will be made by the Executive Director in a timely fashion (no longer than 10 working days). Individuals seeking to contest a denial of a request for reasonable modification will be given the grievance procedure in the format appropriate to their needs.

Appendix A: Sample Accessibility Policies and Procedures

C. Eligibility and Safety Requirements Policy.

It is the policy of the “**AGENCY**” that prohibitions or limitations to the eligibility of otherwise qualified individuals with disabilities, to receive services or participate in programs, is not allowed. Eligibility requirements have been reviewed by the ADA Coordinator and updated to comply with the requirements of the Americans with Disabilities Act. Whenever programs formulate new eligibility policies or new programs are developed, policies will be reviewed by the ADA Coordinator to ensure compliance.

Safety requirements have also been reviewed to ensure that they are necessary to the safe operation of programs, and that any safety-related decision to limit the participation of a person with a disability will be reviewed on a case-by-case basis. This is to ensure that the decision is based on facts, not myths or stereotypes, and that all appropriate mitigating measures are taken to provide for maximum participation. Staff will be informed of and trained in any changes in eligibility and/ or safety requirements that may arise.

D. Policy Regarding Surcharges.

It is the policy of the “**AGENCY**” that surcharges will not be charged to persons with disabilities, their family members or organizations representing them for the following: provision of reasonable accommodations, reasonable modifications to policies and procedures, auxiliary aids and services, or any other costs related to the participation of persons with disabilities.

E. Integrated Services Policy.

It is the policy of the “**AGENCY**” that all of our services, programs, and activities are provided in the most integrated setting possible. People with disabilities are not required to participate in separate programs even if separate programs specifically designed to meet the needs of persons with disabilities are offered.

F. Significant Assistance Policy.

It is the policy of the “**AGENCY**” that programs that receive significant assistance, either financial or in-kind, from the Agency may not discriminate against persons with disabilities. It is the responsibility of the ADA Coordinator to inform organizations receiving assistance of this policy and to respond to any questions regarding its meaning and application. It is also the Coordinator’s responsibility to investigate any situation in which discrimination towards persons with disabilities may have occurred, and to take appropriate action either to correct the discriminatory situation or to recommend to the Executive Director termination of assistance.

Appendix A: Sample Accessibility Policies and Procedures

G. Accessible Transportation Policy .

It is the policy of the “**AGENCY**” that transportation services are accessible to and usable by participants in our programs regardless of disability. Individuals requiring accessible transportation should make their requests in writing or verbally to the ADA Coordinator. Requests should be made at least 3 days in advance. Efforts will be made to respond to requests made on shorter notice. When a request cannot be met, notice will be given as soon as possible and at least one day before the date of the requested trip.

The following local transportation providers equipped with accessible vehicles will be contacted when needed:

- * (Transportation provider name & telephone #)
- * (Transportation provider name & telephone #)
- * (Transportation provider name & telephone #)

H. Community Referral Policy.

When providing referrals to other programs or services, it is the “**AGENCY’S**” policy to determine whether primary referral agencies—those commonly used—are accessible to person with disabilities and aware of the ir obligations under the ADA. When making referrals, the Agency provides clients with disabilities with information regarding community programs that—to the best of our knowledge—are accessible to persons with disabilities and comply with the ADA. In each program area operated by the Agency at least one accessible provider has been identified in each of the categories of services in which we commonly make referrals. A list of accessible, ADA compliant referral agencies is available through the ADA Coordinator on request.

I. Training Policy Regarding Non-discriminatory Program Operation

The “**AGENCY**” provides training on the ADA to new employees during orientation and to all employees through in-service at least yearly. Training covers general information about the ADA and the principles of non-discriminatory operation including but not limited to: how to respond to requests for reasonable modifications to policies and procedures, and how to identify and respond to safety issues.

IV. EFFECTIVE COMMUNICATION

A. Effective Communications Policy .

It is the policy of the “**AGENCY**” that auxiliary aids and services will be provided when necessary to ensure effective communication with persons whose disabilities affect communication. Persons with communications disabilities will be given the opportunity to request the aid or service that they prefer and the requested aid or service will be given primary consideration. The preferred means of communication will be provided unless doing so would impose an undue burden or an effective alternative means of communication is available.

Requests for auxiliary aids or services should be made verbally or in writing to program directors or to the ADA Coordinator. Unless otherwise specified, the agency urges that requests be made at least ten days in advance of the occasion on which the communications support will be needed. Reasonable efforts will be made to respond on shorter notice. The person requesting the service will be notified as soon as possible if the agency is unable to meet his/ her request and an effective alternative will be offered. It will be the responsibility of the ADA Coordinator to train staff and oversee the implementation of effective communication procedures. The Executive Director will be responsible for making any decision related to undue burden or fundamental alteration.

B. TTY/TDD Policy

TTY's are available at the “**AGENCY's**” Main Office, in the office of the ADA Coordinator and in each branch office. TTY training is provided to all new employees during their orientation period and updated for all employees on an annual basis. The TTY number is (XXX) XXX-XXXX and is listed under the Agency in the telephone directory. The TTY number is printed on all documents and mailings that contain the Agency's voice telephone number.

C. Alternative Format Policy and Procedures

It is the policy of the “**AGENCY**” that all documents, publications, and materials used in the Agency programs are made available to persons with disabilities who need them in alternative formats. Procedures have been established to respond to requests for alternative formats including: large print, audiotape, Braille, and electronic formats such as e-mail, computer disks or CD-ROMs, in a timely fashion. Three weeks notice is generally required for the preparation of Braille materials which are purchased through (Agency Name), telephone # (XXX) XXX-XXXX. Reasonable efforts will be made to respond on shorter notice.

Large print, short audio-tapes, and electronic formats such as e-mail, computer disks or CD-ROMs, will be prepared by staff persons who have been identified by the ADA

Appendix A: Sample Accessibility Policies and Procedures

Coordinator and trained in the necessary skills and procedures. Preparation of long audiotapes will be purchased through (Agency Name) telephone # (XXX) XXX-XXXX).

The procedure for requesting alternative formats is:

1. The person making the request should identify the materials desired and specify his/her preferred alternative format to the program director or the ADA Coordinator either verbally or in writing, 10 working days in advance of the event or activity for which the material is needed. Reasonable efforts will be made to meet requests made less than 10 days before an event or activity.
2. The materials will be provided in an effective alternative format at no charge.
3. Primary consideration will be given to the format preferred by the person making the request, and the Agency will decide whether to provide the preferred format or an effective alternative format.
4. If a request cannot be met the person making the request will be informed as soon as possible but at least 2 days in advance of the event or activity.
5. The Executive Director will make the final decision regarding any request that may represent an undue financial or administrative burden.

D. Interpreter Services Policy

It is the policy of the “**AGENCY**” that sign language interpreters will be provided upon request to any person needing interpreter services in order to participate in any meeting, program, or activity of the Agency. Requests should generally be made at least 20 working days in advance of the scheduled event or meeting, but reasonable efforts will be made to meet requests made on shorter notice. Requests should be made either verbally, by TTY or in writing to a program director or the ADA Coordinator.

Within four business hours of receipt of the request, the ADA Coordinator or other responsible employee will contact the Massachusetts Commission for the Deaf and Hard of Hearing (MCDHH), telephone: (617) 695-7500 to schedule the interpreter service.

In addition to MCDHH the Agency maintains a list of names and phone numbers of at least three (3) qualified freelance sign language interpreters working in the region. If informed that MCDHH has not been successful in scheduling interpreters as requested, staff of the Agency will immediately attempt to contact and schedule a freelance interpreter.

If an interpreter cannot be obtained, the ADA Coordinator or other member of the staff will offer the option of an alternative effective form of communication or the opportunity to postpone the meeting until such a time as an interpreter can be scheduled.

Appendix A: Sample Accessibility Policies and Procedures

It is the Agency's policy to ensure funds are available for interpreting services by including a line item for interpreter services in each operating budget.

E. Assistive Listening Device Policy

It is the policy of the “**AGENCY**” that assistive listening devices will be provided upon request to persons needing such devices to participate in programs, services and activities of the agency. Assistive listening devices will be rented through Hartling Communications, Inc.

Hartling Communications, Inc.
85 Wilmington Road, Suite 16,
Burlington, MA 01803-1499
Voice: 781-272-7634 or 800-475-3183
TTY: 781-270-6710 or 800-672-9455
Fax: 781-229-9161
Email: info@hartling.com

The procedure for requesting an assistive listening device is: the person needing the device (or his/her representative) identifies the need for a device verbally or in writing to the ADA Coordinator or other Program Director at least 10 days before the scheduled event or activity will take place.

The ADA Coordinator, or Program Director, or other responsible member of the staff will contact Hartling Communications within 24 hours of receipt of the request and arrange for rental and timely delivery of the device by express mail. *(Every reasonable effort will be made to meet requests made with less than 10 days notice.)*

F. TV Captioning Policy

It has been determined that the television used by the “**AGENCY**” located at its office is equipped with a captioning decoder chip. The procedure for using the decoder function has been tested and described in writing in the *effective communications resources manual* maintained by the ADA Coordinator.

G. Video Policy

It is the policy of the “**AGENCY**” to provide captioned versions of videotapes when such captioning is available in order to ensure that presentations are accessible to all individuals with disabilities.

H. Training Policy

It is the policy of “**AGENCY**” that staff training and other staff development activities are provided by the Agency personnel and volunteers, including training on the use of a TTY, the operator relay service and other equipment necessary to assure effective communication. Personnel should also receive training in procedures and policies on receiving and handling requests for auxiliary aids and services and for ensuring that primary consideration is given to the type of service or format preferred by the person with a disability. Training on effective communication is given during orientation and at scheduled quarterly in-service programs.

V. FACILITY ACCESS

The three offices operated by the “**AGENCY**”: the “Main Office”, the “South County Office”, and the “North County Office”, have been reviewed using the Massachusetts Facility Assessment Tool. The following is a summary of the barriers identified that limit access to and/or use of programs funded by the Massachusetts Department of Public Health. The complete inventories for the three sites are on file with the ADA Coordinator and are available for inspection on request.

Main Office: The building, owned by the Agency, was completely renovated in 1992 in accordance with the accessibility standards of both the Americans with Disabilities Act and the Massachusetts Architectural Access Board. However, the site survey conducted by the ADA Coordinator and the building maintenance engineer, using the Massachusetts Facility Assessment Tool, nevertheless revealed three minor barriers resulting from maintenance oversights.

- 1) Door hardware at the counseling room entrance is not accessible.

Solution: replace knob with lever type hardware. (To be completed within 1 month of submission of this report.)

- 2) Toilet paper dispenser in the accessible men’s room stall removed by vandals.

Solution: replace dispenser. (Completed)

- 3) A concrete paver on the walkway to the main entrance has shifted 1.5 inches creating a tripping hazard;

Solution: due to the onset of cold weather a temporary asphalt patch has been installed; a replacement paver will be installed by the end of May of the next calendar year.

Appendix A: Sample Accessibility Policies and Procedures

South County Office: The office is rented by the Agency under a long-term lease.

- 1) Accessible parking space does not have proper signage and the access aisle is not wide enough to provide van accessible parking (4' rather than the 8' needed).

Solution: Access aisle will be widened and repainted and 'van accessible' sign will be installed within 3 months.

- 2) Ramp to main entrance has handrail on one side only; landing at base of ramp is unevenly sloped asphalt.

Solution: A temporary wood handrail has been installed and the landlord has been contacted in accordance with the lease with a request for installation of a permanent metal handrail and a level concrete landing area as soon as possible after the spring thaw. The Agency ensures that permanent renovations will be completed with or without financial participation by the landlord no later than July 1st next year. We may request assistance from the ADA compliance project in communicating to the landlord his barrier removal responsibility under title III of the ADA.

- 3) Restrooms: both the women's and the men's restrooms have doors that swing inward limiting maneuver space, faucets have non-accessible hardware, drain pipes are not insulated and the towel and soap dispensers are too high.

Solutions:

- Lower towel and soap dispensers and install insulation on drainpipe. (Completed)
- Install lever handles on sinks. (Within 1 month)
- Reverse door swings. (Within 3 months)

North County Office: The office is rented with three years remaining on lease.

- 1) The building is a historic wood frame Victorian house located on a hilly site. There are five steps to the main entrance at the front of the house and the stairs are set back from the public sidewalk less than two feet. The slope falls away towards the rear entrance, which has ten steps. The ADA Coordinator has consulted the local Center for Independent Living and the building inspector, both of whom are in agreement that a ramp is not feasible because of the sloping terrain and space limitations. Installation of an exterior vertical lift would require extensive structural modifications to the front porch in addition to the cost of the lift itself. Total cost of installation would exceed \$25K and is not readily achievable. Preliminary discussions indicate that such a lift would also be unacceptable to the local historical commission.

Appendix A: Sample Accessibility Policies and Procedures

The Agency is therefore proposing the following three -part solution:

- a. The Agency will relocate its office to an accessible site upon expiration of the current lease.
 - b. Until accessible office space is secured, the following program accessibility solution will be used: Individual and group services and programs will be provided upon request to persons for whom the current site is not usable in office and meeting space to be rented from the local Center for Independent Living or the Community Action Agency. Both of these facilities have been determined to be fully accessible by a site inspection using the Facilities Inventory.
 - c. The Agency will carry out readily achievable removal of barriers as needed to ensure that persons with disabilities not needing a ramped entrance route will be able to enter and use the current facility.
- 2) The exposed rear of the main stairway to the second floor poses a hazard to persons who are blind:

Solution: A display table will be permanently positioned to provide a cane detectable warning. (Within 4 months)

- 3) The men's and women's restroom doors have knob handles.

Solution: Install lever handles. (Within 3 months)

- 4) Women's restroom toilet lacks handrails and is too low (15" high).

Solution: Install handrails and 2" extenders on toilet seat. (Within 3 months)

MDPH Sample Accessibility Policies and Procedures revised: September 2010

APPENDIX B

Residential Facility Access Form

Appendix B: Residential Facility Access

APPENDIX B: RESIDENTIAL FACILITY ACCESS

All residential programs funded by the Department of Public Health must be made accessible to and usable by persons with disabilities. The types of barriers to be eliminated include *physical barriers* such as narrow doorways or lack of accessible restrooms and *structural communications barriers* such as lack of tactile signage or visual fire alarms.

In evaluating the accessibility of your facilities and identifying barriers to be removed, the objective is to enable persons with disabilities to enter the facility and participate independently and safely in all programs, services, and activities. This does not mean that facilities must be brought up to a new construction standard of accessibility. Rather the facility must be brought up to a standard of *program accessibility*, which means that the level of accessibility provided must be sufficient to enable persons with disabilities to participate fully and realize the same benefit as all other clients. So, for example, an accessible bedroom or bedrooms must be provided (the number depends on the size of the facility) but not all bedrooms must be made accessible. Restrooms, counseling rooms and other redundant spaces may be treated similarly.

If you have questions about the application of the program accessibility standard to your programs and facilities contact your contract manager.

Appendix B: Residential Facility Access

PROGRAM ACCESS:

1. Are all of your services or activities programmatically accessible to people with disabilities?

____NO

____YES

If any of your services or activities are NOT accessible, please identify them. (Include name of program and location.) Identify barriers to accessibility and list timeframes, cost estimates, and person(s) responsible for making the program sites accessible by structural barrier removal or by development of program alternatives.

2. List three (3) programmatically accessible agencies/providers in your region to which you will refer people with disabilities as your program moves toward full accessibility.

SAFETY PROCEDURES

1. Are there visual fire alarms in client areas for people who are deaf or hard of hearing? (in bathrooms, bedrooms, kitchens, public areas, etc. This pertains to *all* programs)

____NO. Please state transition plans and timelines for implementation below:

____YES. Please state location of visual fire alarms below:

2. Attach your emergency evacuation procedure for people with disabilities.

a) How are emergency evacuation procedures explained to clients?

b) What is your procedure for making this information available in alternative formats upon request? (Example: large print, audio tape, Braille, etc.)

APPENDIX C

Transition Plan Templates:

Transition Plan Cover Page

Transition Plan for Readily Achievable Barrier Removal

**Transition Plan for Non-Readily Achievable Barrier Removal/
Modification**

Appendix C: Transition Plan Templates

Please attach this cover page along with each transition plan developed by your agency's program sites. Please make sure the transition plans are signed by those with the authority to approve the changes outlined. The transition plans are intended to complement any facility access barriers you may find after working through the *Massachusetts Facility Assessment Tool*.

TRANSITION PLAN COVER PAGE

Agency Name: _____ Program Site Name: _____

Program Site Address: _____

Plan developed by (Name): _____ Signature: _____ Date: _____

Title: _____ Phone #: _____

ADA Coordinator Name: _____ Signature: _____ Date: _____

Facility Manager Name: _____ Signature: _____ Date: _____

Budget Manager Name: _____ Signature: _____ Date: _____

Appendix C: Transition Plan Templates

TRANSITION PLAN FOR READILY ACHIEVABLE BARRIER REMOVAL

Agency Name: _____ Program Site Name: _____

Program Site Address: _____ Date: _____

Priority Area and Description of Barrier	Planned Action for Structural Changes/ Improvements	Cost Estimate	Timeline/ Expected Completion Date
Total Cost:----- → (use additional rows/sheets as needed)			

Appendix C: Transition Plan Templates

TRANSITION PLAN FOR NON-READILY ACHIEVABLE BARRIER REMOVAL/ MODIFICATIONS

Agency Name: _____ Program Site Name: _____

Program Site Address: _____ Date: _____

Priority Area and Description of Barrier	Planned Action for Structural Changes/ Improvements	Cost Estimate	Explanation of why barrier removal is not readily achievable/ modifiable	Steps to be taken with policies and procedures to assure program accessibility in lieu of barrier removal
Total Cost-----→				

(use additional rows/sheets as needed)